

RELEASED IN PART
B3, CIA-POL Press Guidance
May 6, 2005**United States Periodic Report on the Convention Against Torture**

Q: Is it true that the United States recently filed a report on its implementation of the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment ("CAT")? What is this report, and why did the United States produce it?

A:

- On May 6, 2005, the United States submitted to the Committee Against Torture its second periodic report on its implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The report is a routine periodic update of our Initial Report, which was filed in October 1999.
- Article 19 of the CAT provides that all States Parties shall submit to the Committee Against Torture reports on measures they have taken to implement the CAT.
- The Convention Against Torture created a body of experts known as the Committee Against Torture (the "Committee"). Among its responsibilities, the Committee reviews reports submitted by CAT States Parties.
- The report just filed provides an update since the filing of the Initial Report in 1999 on new legislation, caselaw, policies, and programs and other relevant information to update the initial report. The material provided is comprehensive, as the report provides an article-by-article discussion of the various provisions of the CAT.
- The report also contains a lengthy annex on detentions of individuals under the control of U.S. Armed Forces in Afghanistan, Iraq and Guantanamo Bay, Cuba, investigations into abuse allegations arising out of these detentions, and actions to hold personnel of the U.S. armed forces accountable under the military justice system when they have been found to have committed unlawful acts.
- The report has been sent to the Committee Against Torture, which will post it on their website in accordance with their standard practice. We will now post the report on our own website.

Core themes to emphasize:

- This report demonstrates that the United States takes its obligations under the Convention Against Torture seriously.

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- Through an extensive inter-agency process we have produced a serious report, consistent with our reporting obligations under the Convention.
- We look forward to engaging in a dialogue on these issues when we present the report orally before the Committee Against Torture at one of its future sessions.
- As the President has clearly stated, America stands against and will not tolerate torture. We take the prohibition against torture seriously.
- Every jurisdiction in the United States, at the federal and state level, prohibits torture.
- We have enacted legislation to ensure that acts of torture committed outside of the United States by U.S. nationals or by foreign nationals subsequently found in the United States acting under color of law are subject to U.S. criminal jurisdiction.
- U.S. laws also prohibit serious abuses short of torture when they are committed by U.S. officials acting within the United States and within the premises of U.S. military or other United States Government missions or entities in foreign States.
- This report documents this robust legal framework and notes how it has been applied in response to allegations of abuse. This report makes clear that in all cases where allegations of torture or other unlawful treatment of detainees have been made, they will be investigated, and if substantiated, prosecuted.
- In every country in the world there are human rights violations.
- What is important is having institutions in place to investigate them and to provide for accountability.
- This report acknowledges serious allegations of abuse by officials acting within the United States and abroad.
- The United States takes seriously any credible allegation of abuse by any government official, whether at the federal or state level, by the military, or by intelligence agencies.
- This report also acknowledges that allegations have been raised that the United States has transferred individuals to third countries where they have been tortured.
- The report reiterates the policy that has been repeatedly reaffirmed at the highest levels of the U.S. government: the United States does not transfer persons to countries where the United States believes it is more likely than not that they will be tortured.

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IF ASKED:

Substance of the report:

- Much of the report is focused on the implementation of the CAT in the criminal justice setting.
- For example, it provides examples of Department of Justice prosecutions of abuses by law enforcement officers since 1999.
- It also describes new legislation that Congress has passed since 1999 that expands the ability of the United States to prosecute acts of torture as well as other serious abuses that fall short of torture.
- The report also describes how aliens in immigration proceedings are granted protection when it is more likely than not that they would face torture in their country of removal, and how this same standard is applied in extradition cases as well.
- It also describes the generous support provided by the United States to victims of torture or other mistreatment, through assistance to groups working on these issues both domestically and overseas.

Reporting process:

Q. Isn't it true that the United States is many years behind schedule in submitting its report? Doesn't that send a negative signal about the seriousness of its commitment to preventing torture?

A:

- Yes, the U.S. was behind schedule, but this is not unusual among States Parties.
- The United States is strongly committed to preventing torture. The United States condemns the use of torture wherever it occurs.

If needed:

- The drafting of a comprehensive report on U.S. implementation of a treaty with the broad scope of the CAT is a complex and ambitious undertaking, which involves contributions by and coordination among many departments within the U.S. government.
- Because of the scope of these undertakings, many countries in addition to the United States have found it difficult to submit their treaty reports on time.

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- With respect to national reports on implementation of the CAT, 93 countries are currently overdue in meeting their reporting requirements, including countries such as Australia, Brazil, Chile, China, Costa Rica, El Salvador, Germany, Ireland, Japan, Liechtenstein, New Zealand, Portugal, South Africa, Spain and Sweden.

Q: What happens now that the United States has filed its CAT report?

A:

- The Committee invites States Parties to present their reports to the Committee in oral session in Geneva.
- The United States, for example, appeared before the Committee in May of 2000 to explain its October, 1999 Initial Report.
- The Department of State anticipates that the Committee will schedule such a session on the U.S. report in one of its future sessions.

Q: When does the United States plan to submit its long overdue report on its implementation of the International Covenant on Civil and Political Rights?

A:

- Now that the United States has completed its report on the Convention Against Torture, it is further intensifying its efforts to complete work on its periodic update report on the International Covenant on Civil and Political Rights.
- We anticipate that we will submit that report in the next few months.

Treatment of Terrorist Detainees

Q: Does the U.S. Report discuss the treatment of U.S. detainees overseas captured during operations against the Taliban, al-Qaida and their affiliates and supporters or treatment of detainees in Iraq?

A:

- Yes. The U.S. report contains a lengthy Annex describing the treatment of detainees under the control of the U.S. Armed Forces in Afghanistan, Guantanamo, and Iraq.

Q: What does the Report or its annex say about treatment of U.S. detainees in Iraq, Afghanistan and Guantanamo?

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A:

- The Annex to the Report describes the background to the war against the Taliban, al-Qaida, and their affiliates and supporters. It describes the status of the detainees held by U.S. Armed Forces, the combatant status review tribunals, how the U.S. assesses detainees for release and/or transfer, military commissions, and the U.S. court proceedings that are underway. It also addresses generally the issue of treatment of detainees and summarizes the numerous USG reviews and reports that have been released to date addressing DoD treatment.
- The Annex to the Report notes that none of the detailed examinations and reports addressing DoD operations have found a governmental policy that promoted, encouraged, or directed the abuses that took place at Abu Ghraib or elsewhere.
- The report and its annexes underscore that the United States takes all allegations of abuse seriously and investigates them. Those people who are found to have committed unlawful acts are held accountable and disciplined as the circumstances warrant. Investigations are thorough and have high priority.

Q: Does the Report address the CIA's treatment of detainees?

A:

- The report notes that all components of the United States Government are obligated to act in compliance with the law, including all United States constitutional, statutory and treaty obligations relating to torture and cruel, inhuman or degrading treatment or punishment.
- The U.S. Government does not permit, tolerate, or condone torture, or other unlawful treatment of detainees by its personnel or employees under any circumstances. U.S. laws prohibiting such practices apply when United States government personnel or contractors are operating in the United States and in other parts of the world, although different U.S. laws may apply depending upon the circumstances.
- Allegations regarding the military are discussed in Annex 1. Allegations regarding intelligence activities are currently under review by the Inspector General of the CIA. That office has reported and will continue to report its findings to the Director of the Central Intelligence Agency and the Congressional Intelligence Oversight Committees and will continue to forward substantiated cases of abuse to the Department of Justice for investigation and prosecution.

If Pressed on CIA practices (including specific cases, so-called "ghost detainees", alleged CIA detention facilities)

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- We do not comment on intelligence activities. The report speaks for itself.

Renditions/Removals to countries despite fears of torture

Q: Does the report address renditions of persons to countries in which they face torture?

A:

- The report acknowledges that allegations have been raised that the United States has transferred individuals to third countries where they have been tortured.
- The report reiterates the policy that has been repeatedly reaffirmed at the highest levels of the U.S. government: the United States does not transfer persons to countries where the United States believes it is "more likely than not" that they will be tortured.

If pressed on whether this policy applies to the CIA

- This policy applies to all components of the United States government.

If pressed on specific allegations of CIA renditions

- The policy not to return people to countries in which the United States believes it is more likely than not that the person would be tortured applies to all components of the United States government.
- In keeping with longstanding practice, we do not comment on intelligence activities.

If pressed about diplomatic assurances

Q: Does the report address the legality of diplomatic assurances? How is it possible for the U.S. to trust the word of governments that are known human rights violators?

A:

- The report restates the policy that has been repeatedly reaffirmed at the highest levels of the U.S. government: the United States does not transfer persons to countries where the United States believes it is "more likely than not" that they will be tortured.
- The United States obtains assurances, as appropriate, from the foreign government to which a detainee is transferred that it will not torture the individual being transferred.

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- If assurances were not considered sufficient when balanced against treatment concerns, the U.S. would not transfer the person to the control of that government unless the concerns were satisfactorily resolved.

If pressed on specific interrogation techniques

Q: Does the report address alleged interrogation techniques such as water-boarding, etc.?
Are such techniques permissible under the CAT?

A:

- The report does not address specific interrogation techniques. The report reiterates that the U.S. is committed to complying with all United States constitutional, statutory, and treaty obligations relating to torture and cruel, inhuman, and degrading treatment or punishment and that it does not permit, tolerate, or condone torture or other unlawful treatment by its personnel or employees under any circumstances, regardless of whether the abuse occurred within the United States or overseas.

If asked about specific cases

Q: Does the report address the case of [specific case]?

A:

- We will need to get back to you on that. As always, we will not be in a position to comment on cases that are the subject of pending litigation.

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